

29 November 2013

To the UN Committee on the Rights of the Child
Center for Human Rights, Palais des Nations, CH-1211 Geneva 10, Switzerland;
Tel.: (41-22) 917-9301, (41-22) 917-1234, Fax: (41-22) 917-0118.

Dear Sirs/Madams,

On behalf of the NGOs – members of the Coalition “Alternative Report – 2013” and also on behalf of representatives of Russian NGOs who participated in the Pre-Session Meeting on 20 June 2013 I submit for your attention our concise Comments to Russia’s answers to the CRC’s additional Lists of Issues presented to Russia in July 2013.

Like “Alternative Report - 2013” these Comments are an open document which we will distribute in Russia and which may be distributed anywhere and in any way.

Boris Altshuler,

Head of the “Right of the Child” NGO (NGO-member of the “Child Rights Connect”)



COMMENTS

by the representatives of Russian NGOs – participants of the Pre-Session Meeting with Committee on the Rights of the Child (20 June 2013) on Russia’s Answers (November 2013) to the Committee’s Additional Questions (Lists of Issues, July 2013)

Preliminaries: In 2011 Russian Federation submitted to UN Committee on the Rights of the Child (CRC) its combined 4-th and 5-th Periodic State Report which consideration is scheduled by CRC for January 2014. In March 2013 Coalition of Russian NGOs submitted to CRC the “Alternative Report - 2013”, also some other NGOs independently submitted to CRC their comments to Russia’s State Report, and on 20 June 2013 in Geneva the Pre-Session Meeting of representatives of NGOs with CRC was held – http://right-child.ru/international_aspects.html

In July 2013 CRC submitted to Russian Government the additional questions:

- “List of Issues” in connection with the State Report and NGOs’ comments to it (SUPPL 1);
- “List of Issues”– in connection with Russia’s fulfilment of the Optional Protocol on the Involvement of Children in Armed Conflicts (SUPPL 2).

In November 2013 Russia submitted to CRC its Responses (Answers) to the CRC’s Additional Questions (see SUPPL 3 and SUPPL 4, in Russian). And now representatives of Russian NGOs submit to

CRC their short Comments to these Government's Responses.

Part I

Question 1. *Please clarify the status of the Convention in the domestic legal system of the Russian Federation. Please inform the Committee on whether the national courts have invoked the rights contained in the Convention, either as a ground for a case or as interpretative guidance for legal norms.*

NGOs' comments. In the end of Russia's Answer (Suppl. 3, page 4) it is said that Article 69 of the Family Code of Russia states: "deprivation of parental rights is an extreme measure of the parents' responsibility". Unfortunately these words are absent in the Article 69 of the Family Code. Yes, this was stated by Supreme Court of Russia, the same idea was not a once declared by President Putin, however no attempts to include this extremely needed addition to the Article 69 of the Family Code were ever undertaken.

We ask CRC to include in its Concluding Observations-2014 the recommendation to Russia to add the formula "deprivation of parental rights is an extreme measure of the parents' responsibility" into the Article 69 of the Family Code of Russian Federation.

Question 2. *Please inform the Committee whether the National Strategy for Action for Children (2012-2017) has been translated into strategies at the local level and what was the involvement of children and the civil society in this process. Please also indicate the implementation budgets as well as monitoring and evaluation measures for such strategies.*

NGOs' comments. Yes regional strategies are adopted in a number of Russian regions, unfortunately this is often quite formal. In particular only in few regions the free of charge breast-milk substitutes to prevent vertical transmission of HIV/AIDS from mother to child are provided, which is among priorities of the National Strategy. There are no additional financial resources for realization of the regional National strategies. 340 billions rubles named in the Russia's Answer (Suppl. 3, page 4) are just taken from budgets of other, already existing , programs in the field of childhood. In 1,5 years after National Strategy was adopted by President of Russia only 3 regions (from 83) submitted the reports on realization of the National Strategy.

The crucial question put by CRC which is left unresponded in Russia's Answer is the problem of independent monitoring (including Civil society monitoring) to what extent these regional strategies and measures of their realization are real. Mechanisms of the Civil Society monitoring of the realization of the National Strategy are now in a stage of elaboration and will be discussed at the Hearings in the Civic Chamber of Russia on 18 December 2013 where representatives of all regions are invited.

Question 3. *Please provide information on the body responsible for the overall coordination of the implementation of the Convention across sectors at the federal level and at the level of federal subjects as well as on their mandate and the human, financial and technical resources allocated to them.*

NGOs' comments. Russia's answer (Suppl. 3, pages 4-6) confirms that there are plenty of bodies and departments responsible for implementation of the Convention – without any institutionalized mechanism of the interaction or coordination between them. Different Councils named in the Answer or the Institute of Ombudsman for Children's Rights (the supervising body) can not be responsible for the overall coordination. At present the Governmental Commission on the Affairs of Minors is the only real federal State body potentially capable to execute the vitally needed coordination meant by CRC. However this Commission meets once in half a year and its work in between the meetings is supported by ONE person – the Responsible Secretary working also in the Ministry of Education and Science. This makes Governmental Commission absolutely ineffective, as coordinating body in particular.

We ask CRC to recommend to Russia to increase the permanent staff responsible for the information, analytical and methodological support to the Governmental Commission on the Affairs of Minors, from present one to, say, 10-15 employees.

Question 4. *Please inform the Committee whether the State party's budgeting process specifies budget allocations to children in the relevant sectors and agencies, including indicators and tracking system both at the federal level and at the level of federal subjects. Please also provide information on whether there are targeted budget allocations for children of migrant workers, Roma children, children of asylum seekers and stateless persons and children who do not possess permanent residence registration.*

NGOs' comments. In the first two paragraphs of the Russia's Answer (Suppl. 3, pages 6-7) the most important point of this CRC's question is ignored – on the children who do not possess permanent residence registration in any of Russian region (according to different data there are 4-6 million of Russian citizens without permanent residence registration, thus there are plenty of children among them). Since all social programs in Russia are regional and are supported only from the regional budgets there are no targeted budget allocations aimed at providing social services to these many thousands of children. Russia's Answer to CRC hush up this extremely painful problem.

Budget allocations in Russia are distributed through budgets of different departments (ministries) listed in the Russia's Answer to Question 3, and the same – in regions. These departments have wide scope of responsibilities, children among them. Absence of the effective interdepartmental coordination in the field of protection of childhood (see above - comments to Question 3) has also a negative impact on the budget support in this field.

Question 5. *Please provide information on regulations for businesses, in particular for oil extracting businesses, to ensure that they do not adversely affect the rights of children, in particular children belonging to indigenous groups.*

NGOs' comments. In the last paragraph of the Russia's Answer (Suppl. 3, page 7-8) it is stated that the Law guarantees the financial compensation to indigenous people for the harm to their ordinary environment. Unfortunately this Law is practically not implemented in the real life.

Question 6. *Please inform the Committee on laws and other mechanisms put in place by the State party to provide protection from discrimination against children in vulnerable situations, such as children belonging to minority groups, Roma children, children of migrant workers, children of stateless persons, girls in North Caucasus, children who do not possess permanent residence registration and children belonging to the LGTB group. Please provide information, in particular on the measures taken to fight and prevent xenophobia and hate crimes.*

NGOs' comments. In the Russia's Answer to this CRC's Question (Suppl. 3, pages 8-11) again it is totally ignored (like in the Answer to Question 4) the problem of children – Russian citizens without the permanent residence registration. In particular it is ignored the problem of absence of any possibility to provide the housing to these children.

Also the housing problems of the children – migrants can not be resolved because of the catastrophic lack of the social housing.

Forcible separation of children and parents – migrants because of the strict punishment for smallest violations of rules in the form of prohibiting entering to Russia for 3 years results in the facts when child is left alone abroad while child's parents are legally working in Russia. **We ask CRC to recommend Russia to amend the Law On foreign Citizens in Russian Federation in a way which exclude the demand of the every 90-days entering Russia for children of migrants who have longer permission to work in Russia (this legislative reform is supported by the Federal Migration Service but it is not heard by the Government or Parliament).**

Russia's Answer lists the programs aimed at preventing xenophobia and manifestation of intolerance to different vulnerable groups of children, but it hushes up the other side of the medal: number of recent laws and measures (like anti-migrants or anti-Roma police raids), which provoke the

dangerous intolerance as regards to migrants, to Roma children, to representatives of LGBT groups etc.

In the paragraph 9 of this Russia's Answer there is positive assessment of the introduction in schools of teaching of four basic religious or secular ethics or history of world religious – separately for every group of schoolchildren. However this artificial and legally established separation of children in practice provokes the growth of intolerance among children.

Question 7. *Please provide information on the effectiveness of the measures taken to prevent sexual abuse and sexual violence against children and to provide rehabilitation services for victims of such offences.*

NGOs' comments. In the Russia's Answer (Suppl. 3, pages 11-12) it is ignored the main and systematic obstacle to organization of effective work against sexual abuse of children: absence of effective coordination between law-enforcement agencies and social system (there are plenty of cases of sexual violence towards children reported by the Investigation Committee of Russia which could be prevented in case social system was involved in this work). Russia's Answer says about the best practices pilot experience in organization of the proper work with cases of sexual abuse of children, but the Answer does not underline the necessity of adoption of the Federal laws which make this best practices work obligatory to all the country.

We again ask CRC to recommend to Russia to organize effective interdepartmental coordination on the federal, regional and municipal levels – on the basis of commissions on affairs of minors and protection of their rights of the federal, regional and municipal levels.

And we ask CRC to recommend Russia to reform the social system to the case-management work – preferably in the social environment.

Also there is no system of independent control of observation of children's rights in children's institutions, including absence of independent revealing of cases of sexual abuse. In particular there are no such vitally demanded mechanisms in the military children's institutions – which is seen from the Russia's Answer to the item "d" of the CRC's Question 4 on the fulfillment of the Optional Protocol (Suppl. 4, Page 3).

We ask CRC again to recommend Russia the introduction of the effective coordination, the case-management social system and also the system of public control of children's institutions, in particular with a goal to combat the sexual violence against children.

Question 8. *In light of the reports that large numbers of children are forcibly separated from their parents, please clarify what are the criteria and guidelines established for Guardianship and Tutorship bodies and the prosecutor's office in order to initiate such cases. Please also clarify how the State party interprets the "occurrence of difficult circumstances" under article 73 of the Family Code used as a basis for separation of children from their parents.*

NGOs' comments. Russia's Answer (Suppl. 1, pages 12-14) again (like in Answer to Question 1) repeats the false statement that the Article 69 of the Family Code of Russia says about deprivation of parental rights as an "extreme measure". In practice this Article is widely and quite formally applied, restoring work with the families is not among the law-established obligations of social centers and participation of social workers in the courts' hearings on deprivation of parental rights is not the law-established necessity – as it is seen also from paragraph 7 of this Russia's Answer.

It is essentially to note that in his Appeal to the Government of Russia in January 2011 Head of Russian Orthodox Church Patriarch Kirill asked to exclude from the Family Code the ill-defined and indefinite criteria for intervention to the family. However this Call was not heard yet.

The most visible manifestation of the absence of the family-assisting and family-restoring social work in Russia is the fact that plural cases of the parents' volunteer passing the child under the care of State (this is permitted by the Article 155-1 of the Family Code, and there are about 200 000 of such non-orphaned inmates of Russian children's institutions) - is not an "alarm button" at all for social services to begin the family-assisting work aimed at reunification of children and parents.

There are also proposals on legislative initiatives aimed at withdrawal children from the same-sex couples.

Question 9. *Please clarify the Government's position on the "anti-juvenile" campaign which reportedly prioritizes the rights of parents over the rights of children and the collaboration of the campaign with the Russian Orthodox Church.*

NGOs' comments. Russia's Answer (Suppl. 3, pages 15-16) fairly states that Russian law does not prioritize the rights of parents but prioritizes the right of the child to be brought up in the family environment. The real problem is that Russian social system is not directed at preservation of biological families, and approaches of the Guardianship and Tutorship bodies, as well as of Courts etc., are quite formal – hence the mass scale separation of children and parents. And this is the reason of the mass support of the "anti-juvenile" campaign by the people who are really frightened by the threat of loss of their children. In practice "anti-juvenile" campaign is targeted at braking of any reforms of the existing family-destroying Russian system. Nobody knows the real umbrella of the "anti-juvenile" campaign but it is seen that this umbrella is above Russian Government, above Russian Orthodox Church and above Russian President – see next comment.

Question 10. *Please inform the Committee on the status of the Draft Law on Public Inspections of Children's Institutions. Please also clarify which body is responsible for the review of placements in care institutions.*

NGOs' comments. Yes, the Presidential (introduced by President Dmitry Medvedev on 27 December 2011) Draft Law on Public Inspections of Children's Institutions waits for its Second Reading in State Duma from March 16, 2012 (when it was passed in the First Reading) and there is no end to this expectation. "Anti-juvenile" campaign attacked this Draft Law in June 2012, in September 2012 and in February 2013. President Putin in his Decree # 1688 from 28.12.2012 proposed to consider this Draft Law as a "first-priority" law. However 6 weeks later, on 9 February 2013, at the "anti-juvenile" meeting which he unexpectedly visited he said that this Draft Law is imperfect and that "perhaps it must not be adopted at all". Since then nobody in State Duma dares to give a push to this Draft Law. Unfortunately Russia's Answer to this Question (Suppl. 3, page 16) does not describe these most important events.

Meanwhile reports by the Investigation Committee of Russia confirm the NGOs' data about most terrible violations of rights of children in children's institutions (sexual and physical abuse, placing to mental hospitals for misbehaviour etc.).

Answer to the second part of the CRC's Question truly states that review of placement of children to children's institutions is the task of the Guardianship and Tutorship bodies. Thus the Answer confirms one of the most painful systematic decrease of Russian system of protection of children – non-involvement in the review procedures of social services of social workers or psychologistsetc. Also the Answer does not clarify that in practice Guardianship and Tutorship bodies never review child's placement to the institutions but consider this placement as their (bodies') final step in protection of child's rights. The reason of this tragic practice roots in the fact that no real responsibility of the Guardianship and Tutorship bodies for violation of child's rights in the institution is established by the law.

Question 11. *Please provide information on the measures taken by the State party to address the widespread abuse of children in care institutions and foster families as well as the type of assistance given to child victims and the follow-up provided.*

NGOs' comments. Russia's Answer (Suppl. 3, pages 16-18) does not outline the main systematic problem which makes inmates of children's institutions especially unprotected (cf. comment to previous Question): this is the law-established unification in one face of the roles of legal representative of the child ("parent" of inmates of the institution is, according to the Family Code, Director of the institution) and the role of provider of different services – the same Director.

We ask CRC to recommend to Russia to adopt as soon as possible the amendments to the Civil Code of Russian Federation proposed by NGOs, supported by the leadership of Council of Federation (upper chamber of Russian Parliament) and considered now in State Duma – on the

introduction of the legal possibility of the “plural guardianship” which will permit to introduce the external responsible mentor for every inmate of children’s institutions.

Question 12. *Please indicate the number of children who have been adopted both nationally and internationally since the adoption of the “Dima Yakovlev” Act in December 2012 prohibiting adoptions of Russian children in the USA. Please also inform to what extent this has affected the adoption prospective of children with disabilities who are deprived of family environment. In this regard, please indicate the number of children with disabilities adopted before and after the entry into force of this law.*

NGOs’ comments. Russia’s Answer (Suppl. 3, pages 18-19) gives false information (“three girls”) on the number of orphaned disabled children who became the victims of the adoption ban to the USA. According to different estimations number of disabled children who in the end of December 2012 were ready to be adopted to American families where the vitally needed special treatment expected them and who instead of it stayed in Russian institutions without any hope for family placement because of the “Dima Yakovlev” Law varies from 50 to 100.

We ask CRC to recommend Russia to exclude disabled children from the action of the “Dima Yakovlev” Law.

Question 13. *Please provide information on the process and timeline for adoption of the Draft Law on the Foundations of Social Service in the Russian Federation. Please also inform the Committee on the measures taken to prevent widespread and systematic institutionalization of children with disabilities. Please also specify the criteria for their placement in institutions and screening methods used to determine the level of their disability. Please indicate the types of assistance and support provided to families with children with disabilities and criteria for eligibility to such assistance and support.*

NGOs’ comments. After the Draft Law on the Foundations of Social Service in the Russian Federation was adopted in the First Reading in May 2013 many hundreds of amendments were proposed to it by the members of State Duma and by many others. Now (end of November 2013) it is urgently prepared to the Second Reading, but it is difficult to say what it will be in the end. In all previous versions of the Draft Law there was written that social services are obliged to provide to the families with disabled children the free of charge complex assistance.

The complex assistance to families with disabled children is the best tool to prevent child’s institutionalization. In general we expect from this new law two basic things which **we ask CRC to recommend to Russian Federation:**

1. To establish by the law that assistance at home (at the place of living) is the main priority of the social system.

2. To establish budgets distributing mechanisms when professional NGOs providing social services compete on equal for state support with state social centers.

Russia’s Answer (Suppl. 3, pages 19-22) flatly ignores the widespread practice of misdiagnostics of children’s mental disability falsely stating that “*there are no cases of medical mistakes when decision is made on placement of the child into the social internat for mentally disabled*” (Suppl. 1, page 20, paragraph 7).

Question 14. *Please explain the concept of inclusive education mentioned in the Law on Education of January 2013 as well as the human, technical and financial resources provided for its implementation.*

NGOs’ comments. There is the great problem of organization of preparation of regular schools to be an inclusive educational facility, and also of organization the systematic assistance to regular schools in combating the problems arising with introduction of inclusive education.

Russia’s Answer (Suppl.3, pages 22-23) partly covers this problem.

However the Answer does not inform about newest bothering documents regulating the implementation of inclusive education – Orders by the Ministry of Educations and Science from 30 August 2013 ## 1014 and 1015 which actually strengthen the traditional educational segregation of

children with the “limited possibilities of health” – especially as regards the children with mental retardation or with autism spectrum disorder. And for the first time in the history of Soviet and New Russia School it is established that certain medical indications may prevent enrollment of this children even to corrective schools (item 31 of the Order # 1015).

Also new Regulation, established by the Government on 20 September 2013, of the work of the Medical-Psychological-Pedagogical Commissions which determine the educational route of the child preserved their traditional formal type work deprived of the case-management approach.

Question 16. *Please inform the Committee on the measures taken to prevent drug and alcohol abuse among children as well as to identify the root causes of increasing numbers of child suicides.*

NGOs’ comments. Again the effective work on preventing children’s drug/alcohol addiction or suicides demands effective interdepartmental coordination and the “case-management” social work – both are still absent in the Russian child protecting system.

The state Answer (Suppl. 3, pages 25-26) says that there is system of the social-medical cabinets in policlinics in some regions. This best practices experience again demands organization of the interdepartmental interaction between social and medical spheres. And this must be made obligatory everywhere by the law.

Question 17. *Please clarify whether the best interests of the child is taken into account as a primary consideration in decisions concerning housing after the divorce of parents which is regulated in article 292 of the Civil Code and article 31 of the Housing Code. Please also inform the Committee on the measures taken to provide children of migrant workers and Roma children with access to adequate housing, including safe water and adequate sanitation, as well as access to public medical services.*

NGOs’ comments. The Answer (Supp 3. 1, pages 26-27) recognizes the unacceptable situation when children may be sent to the street without any substitute housing – strictly according to the Laws named in the CRC’s Question.

Also the practical absence of extra social housing makes it impossible to provide the needed housing to children of vulnerable groups.

The President Putin’s Order of Decree from 7 May 2012 # 600 on the creation of sufficient facilities of rental housings “to the January 2013” is unfortunately not fulfilled by the Government which ignores proposals of experts and of Civic Chamber of Russia (Program “Housing Life Buoy” from September 2012) which permit to fulfill this President’s Order in a short time.

Question 18. *Please explain the extensive segregation of Roma children in “Roma classes” and poor quality of teaching in such classes and inform the Committee on the measures taken to provide access to Roma children to regular schools and classes. Please also inform the Committee on the measures taken to abolish administrative barriers for the enrolment of children of migrant workers and asylum seeking children into regular schools.*

NGOs’ comments. Russia’s Answer (Suppl. 3, pages 27-28) says that law does not permit educational segregation of Roma children, but does not say about the widespread segregation practice. And the Answer does not underline that to overcome these difficulties the schools must be provided with the inclusive-implementation assistance.

Question 19. *Please inform the Committee on the steps taken to extend the juvenile justice programme to all regions of the Russian Federation. Please provide information about the timeline established for the adoption of laws establishing juvenile courts.*

NGOs’ comments. The many years braking in State Duma of the package of laws on juvenile courts resulted from the huge family protecting “anti-juvenile” campaign (see Comment to Question 9). Although there is no visible connection of the specialized court procedures for minors-delinquents and family protection (as well as there is no connection of the family protection with Public inspections of children’s institutions - see Comment to Question 10).

The Conception of Codification of the Russian Laws in view of the introduction of the special law-enforcement procedures for children-delinquents (see last paragraph of the Russia's Answer to Question # 19 – Suppl. 3, page 29) was to be submitted to the Government in June 2013 - according to the item 58 of the Plan of realization of the National strategy approved by the Government's Decision from 15.10.2012 # 191 b-r. However it is not done until now.

And Russia vitally needs the probation system mentioned in the State's Answer. The talks about it last for years without any outcome. **We ask CRC to recommend to Russian Federation to implement case-management probation system for minors and young delinquents as soon as possible.**

Part II

NGOs' comments (to Suppl. 3, pages 30-37). Here we just outline the most important Law from 2July 2013 # 167-FZ (named in the Russia's Answer) which stated that organization of life of inmates of children institutions is regulated on the federal level by the Government of Russian Federation.

In pursuance of this Act Ministry of Education and Science in cooperation with NGOs (Public Council on Protection of the Rights of Orphaned Children formed by the Ministry in August 2013) elaborated Draft of new Regulations of children's institutions which states obligatory life of inmates only in the family-like groups with permanent tutors. We hope that these new Regulations will be approved by the Government soon.

Part III (request to provide additional statistical data, if available)

NGOs' comment. There was no Answer to Part III from Russian Government. The Draft of the Russian Consolidated 4-th and 5-th State Periodic Report to CRC prepared by the Ministry of Labor in 2011 contained plenty of useful Tables of State statistics attached to the Report. We are not sure that these Addendums were submitted to CRC in English translation. In any case they are placed in internet by NGOs:

http://www.xn--b1aafdbiha0cffe2bhbb.xn--p1ai/index.php?option=com_content&view=article&id=108:-4-5-&catid=4:2011-03-01-23-52-03&Itemid=14